

Article 3: Police Regulated Occupations and Businesses**Division 35: Massage Business and Massage Technicians***("Massage Business and Massage Technicians"**added 12-21-1976 by O-11969 N.S.)***§33.3501 Citation of Ordinance**

This division may be cited as the San Diego Massage Business and Massage Technicians Regulatory Ordinance.

("Citation of Ordinance" added 12-21-1976 by O-11969 N.S.)

§33.3502 Purpose and Intent

It is the purpose and intent of this division to provide for the orderly regulation of the business of massage and massage technicians in the City of San Diego by establishing certain minimum standards for the conduct of this type of business to protect the public health and welfare of the residents of the City of San Diego.

This ordinance is adopted pursuant to Chapter 6, Part I of Division I of Title 5 (Sections 51030 through 51034) of the California Government Code.

("Purpose and Intent" added 12-21-1976 by O-11969 N.S.)

§33.3503 Massage Business — Police Regulated

The business of massage is hereby designated "Police Regulated."

("Massage Business — Police Regulated" added 12-21-1976 by O-11969 N.S.)

§33.3504 Definitions

Whenever used in this division, the following words and phrases shall mean:

- (a) "Massage" shall mean any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

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- (b) “Massage Establishment” shall mean any establishment having a fixed place of business where any individual, firm, association, partnership, corporation, or combination of individuals, engages in, conducts, carries on or permits to be engaged in, conducted or carried on “massages” as defined in this division.
- (c) “Off–Premises Massage” shall mean the activity of providing massage services at a location other than premises licensed as a massage establishment.
- (d) “Massage Technician” shall mean any person who gives or administers to another person, for any form of consideration whatsoever, a “massage” as defined in this division.
- (e) “License” shall mean the business license to operate a massage establishment or off–premises massage business required by this division.
- (f) “Permit” shall mean the permit to engage in the activities of a massage technician required by this division.
- (g) “Specified Anatomical Areas” shall mean: pubic region, human genitals, perineum, anal region and the area of the female breast that includes the areola and the nipple.

(Amended 5–22–1979 by O–12661 N.S.)

§33.3520 Massage Establishment — License Required

It shall be unlawful for any person, association, partnership or corporation to engage in, conduct, carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises within the City of San Diego, the operation of a “massage establishment” as herein defined, without a license issued pursuant to the provisions of this division for each and every such massage establishment. The license required hereby shall be in addition to any business tax license required by this Code.

(“*Massage Establishment— License Required* “ *renumbered from Sec. 33.3505 on 1–9–1989 by O–17203 N.S.*)

§33.3521 Massage Establishment License

- (a) Any person, association, partnership, or corporation desiring to obtain a license to operate a massage establishment shall make an application to the Chief of Police or his designated representative. An annual nonrefundable fee shall accompany the submission of each application to defray, in part, the cost of investigation, inspection and enforcement of this Division. An annual

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nonrefundable renewal fee shall also be charged to defray associated costs of investigation and enforcement.

- (b) Each applicant for a license to operate a massage establishment shall furnish the following information to the Chief of Police:
- (1) The full true name and any other names used by the applicant.
 - (2) The present address and telephone number of the applicant.
 - (3) The proposed address of the massage establishment.
 - (4) Each residence and business address of applicant for the three (3) years immediately preceding the date of the application, and the inclusive dates of each such address.
 - (5) Written proof that the applicant is at least eighteen (18) years of age.
 - (6) Applicant's height, weight, color of eyes and hair.
 - (7) Two photographs of applicant one inch by one inch in size, taken within one (1) month immediately preceding the date of application. One photograph shall be retained by the Chief of Police and one photograph shall be affixed to the license.
 - (8) Applicant's business, occupation and employment history for the three (3) years immediately preceding the date of application.
 - (9) The business license or permit history of the applicant: whether such applicant has ever had any license or permit issued by any agency or board, City, County, or State revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason therefor.
 - (10) All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions.
 - (11) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation or Charter, together with the State and date of incorporation and names and residence addresses of each of its current officers and directors, and of

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each stockholder holding more than five percent (5%) of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this section pertaining to corporate applicants shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such person shall complete and sign all application forms required of an individual applicant under this division, but only one application fee shall be charged.

- (12) The name and address of the owner and lessor of the real property upon or in which the business is to be conducted, and a copy of the lease or rental agreement.
 - (13) Such other identification and information as may be required in order to discover the truth of the matters herein specified as required to be set forth in the application.
 - (14) The Chief of Police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.
- (c) The Chief of Police shall have a reasonable time, not to exceed sixty (60) days, in which to investigate the application and background of the applicant.
- (d) A license shall be issued within sixty (60) days of receipt of the application to any applicant who has furnished all of the information required by this section in the application for such license, provided:
- (1) The applicant has not knowingly made a material false statement in the application for the license;
 - (2) The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent (5%) or more of the corporation's stock, has not within five (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Sections 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code; an offense which requires

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registration as a sex offender with the Chief of Police under Penal Code Section 290; any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code; or any offense in another state which, if committed in this state, would have been punishable as one or more of the heretofore mentioned offenses; or any offense in another state which, if committed in this state, would have been punishable as one or more of the heretofore mentioned offenses; or any offense involving the use of force or violence upon the person of another; any offense involving theft, embezzlement or moral turpitude; or any statute, ordinance or regulation pertaining to the same or similar business operation.

- (3) The massage establishment as proposed by the applicant would comply with all applicable laws including but not limited to, health, zoning, fire and safety requirements and standards;
- (4) The applicant is at least eighteen (18) years of age; and
- (5) The applicant has fulfilled the requirements of paragraphs (a) through (t) of Section 33.3540.
- (6) The applicant has not had a massage technician, massage establishment, escort service, nude entertainment, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.

(“Massage Establishment License” renumbered from 33.3506 on 1–9–1989 by O–17203 N.S.)

§33.3522 Massage Establishment License — Health Department Inspection and Investigation

In addition to the requirements of Section 33.3521, any person, association, partnership, or corporation desiring to operate a massage establishment shall make an application to the County of San Diego, Department of Health Services, for a Health Permit. An annual non-refundable fee, the exact amount of which shall be determined and kept on record by the County Department of Health Services, shall accompany the submission of each application to the Department of Health Services to defray the

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cost of investigation, inspection and enforcement of the health aspects of this Division.

Any massage establishment licensee failing to renew the Health Permit within thirty (30) days after expiration shall be assessed a ten percent (10%) penalty for each month of failure to renew added to the cost of the renewal of the Health Permit fee, and this sum shall be paid to the Department of Health Services. In no case shall the penalty exceed sixty percent (60%) of the renewal fee. The imposition and/or payment of the penalty imposed by this Section shall not prevent the imposition of any other penalties prescribed by this Chapter or prosecution for violation of this Chapter.

(“Massage Establishment License— Health Department Inspection and Investigation” renumbered from 33.3506.1 on 1-9-1989 by O-17203 N.S.)

§33.3523 Off-Premises Massage Business — License Required

It shall be unlawful for any person, association, partnership or corporation to engage in, conduct, carry on, or advertise, or to permit to be engaged in, conducted, or carried on, any off- premises massage business within the City of San Diego without a license issued pursuant to the provisions of this division for each and every such massage business. The license required hereby shall be in addition to any business tax license required by this Code.

(“Off-Premises Massage Business— License Required” renumbered from 33.3507 on 1-9-1989 by O-17203 N.S.)

§33.3524 Off-Premises Massage Business License

- (a) Any person, association, partnership, or corporation desiring to obtain a license to conduct an off-premises massage business shall make an application to the Chief of Police or his designated representative. An annual nonrefundable fee shall accompany the submission of each application to defray, in part, the cost of investigation, inspection and enforcement of this Division. An annual nonrefundable renewal fee shall also be charged to defray associated costs of investigation and enforcement.
- (b) Each applicant for a license to conduct an off-premises massage business shall furnish to the Chief of Police all the information required by Section 33.3521(b) (1) through 33.3521(b) (14) of this division.
- (c) The Chief of Police shall have a reasonable time, not to exceed sixty (60) days, in which to investigate the application and background of the applicant.

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- (d) A license shall be issued within sixty (60) days of receipt of the application to any applicant who has furnished all of the information required by this Division in the application for such license, provided:
- (1) The applicant has not knowingly made a material false statement in the application for the license;
 - (2) The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent (5%) or more of the corporation's stock, or partners, has not within (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Sections 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the Chief of Police under Penal Code Section 290; any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057, 11058 of the Health and Safety Code; or any offense in another state which, if committed in this state, would have been punishable as one or more of the heretofore mentioned offenses; any offense involving the use of force or violence upon the person of another; any offense involving theft, embezzlement, or moral turpitude; or any statute, ordinance, or regulation pertaining to the same or similar business operation.
 - (3) The applicant is at least eighteen (18) years of age.
 - (4) The applicant has not had a massage technician, massage establishment, off-premises massage establishment, nude entertainment, escort service, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.
- (e) Off-premises massage operations shall be carried on only between the hours of 7:00 a.m. and 10:30 p.m.
(Renumbered from Sec. 33.3508 on 1-9-1989 by O-17203 N.S.)

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§33.3530 Massage Technician — Permit Required

It shall be unlawful for any person to engage in the business of acting or act as a massage technician without a permit issued pursuant to the provisions of this division.
(Renumbered from 33.3509 on 1-9-1989 by O-17203 N.S.)

§33.3531 Massage Technician Permit

- (a) Any person desiring to obtain a permit to act as a massage technician shall make an application to the Chief of Police, or his designated representative. An annual nonrefundable fee shall accompany the submission of each application to defray, in part, the cost of investigation and examination as required by this Division. An annual nonrefundable renewal fee shall also be charged to defray associated costs of investigation and enforcement.
- (b) Each applicant for a permit to act as a massage technician shall furnish the following information to the Chief of Police:
 - (1) The full true name and any other names used by the applicant.
 - (2) The present address and telephone number of the applicant.
 - (3) Each residence and business address of applicant for the three (3) years immediately preceding the date of the application, and the inclusive dates of each such address.
 - (4) Written proof that the applicant is at least eighteen (18) years of age.
 - (5) Applicant's height, weight, color of eyes and hair.
 - (6) Two photographs of applicant one inch by one inch in size taken within the one (1) month immediately preceding the date of application. One photograph shall be retained by the Chief of Police and one photograph shall be affixed to the permit.
 - (7) Applicant's business, occupation and employment history for the three (3) years immediately preceding the date of application.
 - (8) The business license or permit history of the applicant: whether such applicant has ever had any license or permit issued by any agency or board, City, County, or State revoked or suspended, or has had any

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professional or vocational license or permit revoked or suspended, and the reason therefor.

- (9) All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions.
- (10) The massage establishment, if any, at which the applicant expects to be employed.
- (11) A certificate from a medical doctor, licensed to practice in the State of California, stating that the applicant has within thirty (30) days immediately preceding the date of application been examined and had no communicable disease on the date of the examination.
- (12) Proof of successful completion of an examination prepared and conducted by the Department of Public Health of the County of San Diego wherein the applicant is required to demonstrate a basic knowledge of anatomy, physiology, hygiene and manual and mechanical massage. The examination shall include both a practical demonstration and a written test. The written test shall test the competency and ability of the applicant to engage in the practice of massage. A fee shall be paid to the City Treasurer by each applicant who takes the examination to defray the cost to the Health Department of administering the examination. Such fee shall be paid for each examination taken by an applicant. Every applicant who fails to successfully complete such examination shall not be eligible for another examination until thirty (30) days after taking the previous examination. In lieu of passing the written portion of such examination, the applicant may furnish written proof of graduation from a school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a residence course study of not less than one hundred (100) hours to be given in not more than three (3) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning, following the successful completion of such course of study or learning, and which school has been approved by the State Superintendent of Public Instruction pursuant to the California Education Code.

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- (13) Such other identification and information as may be required in order to discover the truth of the matters herein specified as required to be set forth in the application.
- (14) The Chief of Police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.
- (c) The Chief of Police shall have a reasonable time, not to exceed sixty (60) days, in which to investigate the application and background of the applicant.
- (d) A permit shall be issued within sixty (60) days of receipt of the application to any applicant who has furnished all of the information required by this section in the application for such permit, provided:
 - (1) The applicant has not knowingly made a material false statement in the application for the permit;
 - (2) The applicant has not within five (5) years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Sections 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code; an offense which requires registration as a sex offender with the Chief of Police under Penal Code Section 290; any felony offense involving the sales of a controlled substance specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code; or any offense in another state which, if committed in this state, would have been punishable as one or more of the heretofore mentioned offenses; any offense involving the use of force or violence upon the person of another; any offense involving theft, embezzlement, or moral turpitude; or any statute, ordinance or regulation pertaining to the same or similar business operation.
 - (3) The applicant is at least eighteen (18) years of age;
 - (4) The applicant has furnished an acceptable medical certificate in compliance with this section; and
 - (5) The applicant has furnished proof of either (a) graduation from a school of massage as provided in this section and proof of successful completion of a practical proficiency examination administered by the San Diego County Health Department as provided in this section; or

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(b) proof of successful completion of both the practical proficiency examination and written test administered by the San Diego County Health Department as provided in this section. These requirements shall not apply to any person who had been acting or employed as a massage technician on a regular basis for three (3) years immediately preceding the date of July 2, 1976, provided satisfactory proof of such employment can be established.

(6) The applicant has not had a massage technician, massage establishment, off-premises massage establishment, nude entertainment, escort service, rap parlor, nude photo studio or similar type of license or permit suspended for one (1) year or more, or revoked for good cause within three (3) years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or mitigating circumstances exist since the revocation or suspension.

(e) A permit to act as a massage technician does not authorize the operation of a massage establishment. Any person obtaining a permit to act as a massage technician who desires to operate a massage establishment must separately apply for a license therefor. A person who applies for a license to operate a massage establishment and who desires to act as a massage technician within said establishment who pays the fee required by Section 33.3506 of this division shall not be required to pay the fee required by this section.

(Renumbered from 33.3510 on 1-9-1989 by O-17203 N.S.)

§33.3532 Exemptions

This division shall not apply to the following classes of individuals; and no permit shall be required of such persons while engaged in the performance of the duties of their respective professions; nor shall a license be required for the establishment at which a massage is administered by or under the control and direction of such persons:

- (a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of California.
- (b) Nurses who are registered as such under the laws of the State of California.
- (c) Barbers and beauticians who are duly licensed under the laws of the State of California.

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- (d) Trainers of any amateur, semiprofessional or professional athlete or athletic team.
- (e) Holistic health practitioners who are nonmedical health care therapists and use a massage specialty and therapeutic approach in caring for clients and who present to the Chief of Police proof of satisfactory completion of one thousand hours of instruction in such specialty or therapeutic approach at a school with a state approved curriculum and proof of membership in a state or nationally chartered organization devoted to the specialty or therapeutic approach. The practice of such health care therapists may include other services such as nutritional assistance or counseling as long as all activities are directed toward health care.
- (f) All individuals who use a massage specialty and therapeutic approach in caring for clients while under the “control and direction” of any of the exempted classes of individuals as listed above in sections (a) through (e) must have a valid massage technician permit and comply with all the requirements of section 33.3542.
- (g) For the purpose of this section any individual using massage specialty and therapeutic approach in caring for clients is considered under the “control and direction” of an exempt class individual only when a member of that exempt class is physically present on the establishment premises where the massage is being administered.

(Renumbered from 33.3511 on 1-9-1989 by O-17203 N.S.)

§33.3533 Operative Date — Massage Technicians

All persons operating or employed as massage technicians at the time this division becomes effective shall obtain a Massage Technician Permit within sixty (60) days of the effective date of this division.

(Renumbered from 33.3512 on 1-9-1989 by O-17203 N.S.)

§33.3540 Massage Establishments — Operating Requirements

No person, association, partnership, or corporation shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of a massage establishment unless each and all of the following requirements are met:

- (a) Each person employed or acting as a Massage Technician shall have a valid permit issued pursuant to the provisions of this division, and it shall be

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unlawful for any owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment to employ or permit any person to act as a Massage Technician who is not in possession of a valid, unrevoked Massage Technician Permit.

- (b) The possession of a valid massage establishment business license does not authorize the possessor to perform work for which a Massage Technician Permit is required.
- (c) No massage operation shall be carried on and no massage establishment premises shall be open between the hours of 10:30 p.m. and 7:00 a.m. All customers, patrons and visitors shall be excluded from such premises during those hours.
- (d) A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in readily understandable language. No owner, operator, responsible managing employee, manager, or permittee in charge of, or in control of the massage establishment, shall permit, and no massage technician shall offer to perform, any services other than those posted.
- (e) The massage establishment business license, public health permit, and a copy of the permit of each and every massage technician employed or working in the establishment shall be displayed in an open and conspicuous public place on the premises.
- (f) A minimum of one (1) tub or shower and one (1) toilet and wash basin shall be provided for the patrons in every massage establishment; however, if male and female patrons are to be served simultaneously at said establishment, separate toilet facilities shall be provided for male and female patrons. Hot and cold running water under pressure shall be provided to all wash basins, bathtubs, showers, and similar equipment. Each wash basin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room.
- (g) Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted and reuse is prohibited unless they have been first laundered. Heavy white paper may be substituted for sheets provided that such paper is used once for each person, then discarded into a sanitary receptacle.

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- (h) Disinfecting agents and sterilizing equipment sufficient to assure the cleanliness and safe condition thereof shall be provided for any instruments used in performing any massage.
- (i) Pads used on massage tables shall be covered in a workmanlike manner with durable, washable plastic or other waterproof material.
- (j) In steam rooms and rooms containing tubs or showers, a waterproof floor covering shall be provided which extends up the walls at least six inches and shall be covered at the floor-wall juncture with at least a 3/8 inch radius. Toilet rooms shall be of similar construction.
- (k) Walls of toilet and bathing facilities shall be smooth, waterproof and kept in good repair.
- (l) All walls, ceilings, floors, pools, showers, bathtubs, wet and dry heat rooms, steam rooms, tables and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or cabinets, showers and toilet rooms shall be thoroughly cleaned at least once each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- (m) All plumbing and electrical installations shall be installed under permit and inspection by the Development Services Department and such installations shall be installed in accordance with the California Building Code and the California Plumbing Code, as adopted in Chapter 9 of the Municipal Code.
- (n) Cleanable and nonabsorbent waste containers with tight fitting covers shall be provided for the storing of all waste matter and shall be maintained in a clean and sanitary condition.
- (o) Closed cabinets or containers shall be provided for the storage of laundered towels and linens. Nonabsorbent containers or laundry bags shall be provided for damp or soiled linen, and linen shall be kept therein until removed for laundering.
- (p) All establishments shall be so equipped, maintained, and operated as to effectively control the entrance, harborage, and breeding of vermin, including flies. When flies or other vermin are present, effective control measures shall be instituted for their control or elimination.

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- (q) Each establishment shall provide to all patrons clean, sanitary and opaque coverings capable of covering the patron's specified anatomical areas. No common use of such covering shall be permitted, and reuse is prohibited unless having been adequately cleaned. In addition, no owner, operator, responsible managing employee, manager, or permittee in charge of or in control of a massage establishment shall permit a massage to be given unless the patron is covered by the covering provided by the establishment. Regulatory only within this Division.
- (r) With the exception of bathrooms, showers and dressing rooms, no owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any massage establishment shall permit any person in any area within the massage establishment which is used by the patrons or which can be viewed by patrons from such an area, unless the person's specified anatomical areas are fully covered. Regulatory only within this Division.
- (s) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment shall permit any massage technician to be on the premises of a massage establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. The covering, which includes trousers, pants or shorts, will be of an opaque material and will be maintained in a clean and sanitary condition. Regulatory only within this Division.
- (t) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment shall during the course of any service or task associated with the operation of a massage operation permit any person to massage, or intentionally touch the specified anatomical areas of another person. Regulatory only within this Division.

(Amended 7-19-1999 by O-18656 N.S.)

§33.3541 Off-Premises Massage Business — Operating Requirements

- (a) No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any off-premises massage business shall knowingly

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permit a massage technician to give a massage or to be in any room with a patron unless the patron's specified anatomical areas are fully covered. Regulatory only within this Division.

- (b) No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any off-premises massage business shall knowingly permit any massage technician who is employed by or associated with the off-premises massage business to perform any service or task while in the presence of any patron of an off-premises massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. The covering, which includes trousers, pants, or shorts, will be of any opaque material and will be maintained in a clean and sanitary condition. Regulatory only within this Division.
- (c) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of an off-premises massage business shall knowingly allow any employee or massage technician associated with the off-premises massage business to massage or intentionally touch the specified anatomical areas of another person. Regulatory only within this Division.
- (d) Each person employed or acting as a massage technician shall have a valid permit issued pursuant to the provisions of this division, and it shall be unlawful for any owner, operator, responsible managing employee, manager or permittee in charge of or in control of an off-premises massage business to employ or permit any person to act as a massage technician who is not in possession of a valid massage technician permit.
- (e) The possession of a valid off-premises business license does not authorize the possessor to perform work for which a massage technician permit is required.
- (f) The off-premises massage business license and a copy of the permit of each and every massage technician employed or working for the off-premises massage business will be displayed in an open and conspicuous place on the licensed business location.
- (g) No common use of towels or linens shall be permitted and reuse is prohibited unless they have been first laundered.

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- (h) Disinfecting agents and sterilizing equipment sufficient to assure the cleanliness and safe condition thereof shall be provided for any instruments used in performing any massage.

(“Off-Premises Massage Business— Operating Requirements” renumbered from 33.3513.1 on 1-9-1989 by O-17203 N.S.)

§33.3542 Message Technician — Operating Requirements

- (a) No massage technician, while performing any task or service associated with the massage business, shall be present in any room with another person unless the person’s specified anatomical areas are fully covered. Regulatory only within this Division.
- (b) No massage technician shall be on the premises of a massage establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a massage business, unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. In addition, no massage technician shall perform any task or service while in the presence of any patron of an off- premises massage business unless the massage technician is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. For purposes of this subsection, the covering, which includes trousers, pants or shorts, will be of an opaque material and will be maintained in a clean and sanitary condition. Regulatory only within this Division.
- (c) No massage technician, while performing any task for service associated with the business of massage, shall massage or intentionally touch the specified anatomical areas of another person. Regulatory only within this Division.

(Renumbered from 33.3513.2 on 1-9-1989 by O-17203 N.S.)

§33.3550 Operative Date — Massage Establishments

Any person, association, partnership or corporation engaging in, conducting, or carrying on the operation of a “massage establishment” on the effective date of this

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division, shall, except as otherwise provided herein, comply with all of the provisions of this division within sixty (60) days of the effective date of this division. Any person, association, partnership or corporation coming within this section shall comply with paragraph (f) of Section 33.3513 no later than one year after effective date of this division.

(Renumbered from 33.3514 on 1-9-1989 by O-17203 N.S.)

§33.3551 Name of Business

No person licensed to do business as herein provided shall operate under any name or conduct his business under any designation not specified in his license.

(Renumbered from 33.3515 on 1-9-1989 by O-17203 N.S.)

§33.3552 Change of Location

A change of location of licensed massage establishment shall be approved by the Chief of Police provided all applicable provisions of this Division are complied with, the San Diego County Department of Health Services and the Development Services Department have inspected the new location and have advised the Chief of Police that it complies with the requirements of this Division and all other applicable laws, a nonrefundable Health Permit fee has been paid to the County of San Diego for inspection of the new location, and a nonrefundable change of location fee has been paid to the Chief of Police. The Chief of Police shall not approve any change of location until the massage establishment licensee has complied with all applicable provisions of this Division and all other applicable laws.

(Amended 7-25-1994 by O-18088 N.S.)

§33.3553 Sale or Transfer

Thirty (30) days after the sale or transfer of any interest in a massage establishment or off-premises massage business, any license heretofore issued shall be null and void. A new application shall be made by any person, firm, or entity desiring to own or operate the massage establishment or off-premises massage business. A fee shall be payable for each such application involving sale or other transfer of any interest in an existing massage establishment or off-premises massage business. The provisions of Section 33.3506 of this division shall apply to any person, association, partnership, or corporation applying for a massage establishment license for premises previously used as such establishment.

Any such sale or transfer of any interest in any existing massage establishment or any application for an extension or expansion of the building or other place of business of

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the massage establishment shall require inspection and shall require compliance with Section 33.3513 of this division.

(Renumbered from 33.3517 on 1-9-1989 by O-17203 N.S.)

§33.3554 Inspection

The Police Department and Health Department shall make reasonable and periodic inspections of the foyer, hallways, restrooms and other areas used or intended for use in common by customers, and unoccupied rooms of each and every massage establishment in the City of San Diego during hours of the business operation for the purpose of determining that there is compliance with the provisions of this division and the laws of the State of California.

(Renumbered from 33.3518 on 1-9-1989 by O-17203 N.S.)

§33.3555 Ground for Suspension or Revocation of License or Permit

In addition to the grounds enumerated in Section 33.0401, in the event that any person holding a license or permit issued pursuant to this division shall violate or cause or permit to be violated any of the provisions of this division or is convicted of any of those crimes contained in Section 33.3506(d)(2), the Chief of Police may, in addition to other penalties provided by ordinance, take action to suspend or revoke the license or permit of the licensee or permittee.

(Renumbered from 33.3519 on 1-9-1989 by O-17203 N.S.)

§33.3556 Constitutionality

If any section, subsection, sentence, clause or phrase of this division is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this division. The Council hereby declares that it would have adopted the division and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(Renumbered from 33.3523 on 1-9-1989 by O-17203 N.S.)